

**MISSOURI COURT OF APPEALS
WESTERN DISTRICT**

JOHN DEAN WENNIHAN

RESPONDENT,

v.

BETH ANN WENNIHAN

APPELLANT.

DOCKET NUMBER WD77280

DATE: January 13, 2015

Appeal From:

Atchison County Circuit Court
The Honorable Corey Keith Herron, Judge

Appellate Judges:

Division Two: Cynthia L. Martin, Presiding Judge, Victor C. Howard, Judge and Mark D. Pfeiffer, Judge

Attorneys:

Dan Smith, Rock Port, Missouri, for respondent.

Sandra Grant Hessenflow, Kansas City, MO, for appellant.

MISSOURI APPELLATE COURT OPINION SUMMARY

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JOHN DEAN WENNIHAN,

RESPONDENT,

v.

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No. WD77280

Atchison County

Before Division Two: Cynthia L. Martin, Presiding Judge, Victor C. Howard, Judge and Mark D. Pfeiffer, Judge

Beth Wennihan ("Mother") appeals from a judgment entered in the Circuit Court of Atchison County dissolving her marriage to John Wennihan. Mother challenges the trial court's designation of Father's home as the child's residence for school and mailing purposes and its division of parenting time in its parenting plan.

REVERSED and REMANDED in part. In all other respects, the judgment is AFFIRMED.

Division Two holds:

1. Mother's points relied on contain multifarious claims of error and, accordingly, violate Rule 84.04. Because we are able to discern the claims being made and the defective nature of the points relied on does not impede our disposition of the case on the merits, we will exercise our discretion to attempt to resolve the issues on the merits.

2. The trial court's finding that it was in the child's best interests for the marital home, which was awarded to Father, to remain the child's principal place of residence is not against the weight of the evidence.

3. The trial court's findings regarding parenting time are not against the weight of the evidence.

4. Mother's claim that the trial court's judgment failed to provide sufficient, detailed findings regarding why the court rejected various provisions of Mother and Father's proposed parenting plans is not preserved for appellate review as the claim was not raised in a Rule 78.07(c) post-judgment motion.

5. The dispute resolution provision in the parenting plan is sufficient to meet the statutory requirement that a parenting plan contain a dispute resolution procedure.

6. Section 452.310.8(1) requires that a parenting plan have a specific written parenting time schedule that addresses various holidays and other specified occasions. The trial court is not free to disregard any of the enumerated events. The parenting plan failed to address Presidents' Day and Martin Luther King Jr. Day, both of which are school holidays specifically referenced in the Parenting Plan Guidelines issued by the Missouri Supreme Court, and may have failed to address other school holidays not specifically identified in Mother's brief. The failure to account for such holidays in the parenting plan constitutes reversible error, requiring remand to permit the trial court to modify the parenting plan accordingly.

Opinion by Cynthia L. Martin, Judge

January 13, 2015

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